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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 State of Arizona, et al.,

10 Plaintiff,

11 v.

12 Michael D Lansky LLC, et al.,

13 Defendants.
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No. CV-23-00233-TUC-CKJ

ORDER

15 **IT IS ORDERED** that the settlement conference set for November 5, 2024, is
16 **vacated**. To accommodate counsels' availability, the settlement conference is reset for
17 **December 4, 2024, at 9:30 a.m.** (Tucson local time). The conference will be held using
18 the Zoom platform.

19 **IT IS FURTHER ORDERED:**

20 1. Counsel who will be responsible for trial shall appear and participate.
21 Additionally, representatives of the parties with full and binding authority to dismiss and
22 settle the case must be present unless expressly excused for good cause.¹

23 2. Prior to the conference, the parties shall negotiate and make a good faith
24 effort to settle the case. Plaintiffs must deliver a written settlement demand to Defendants
25 on or before November 8, 2024. Defendants must deliver a written response to Plaintiffs
26 on or before November 15, 2024.

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28 ¹ From its communications with counsel, the Court understands that Plaintiffs' collective interests will be represented by counsel for Arizona, Colorado, Florida, Indiana, North Carolina, and Ohio.

1 3. The parties shall each prepare a confidential settlement position statement.
2 The parties shall not file their position statements with the Clerk of Court and shall not
3 exchange their position statements with opposing counsel. The parties may include with
4 their position statements copies of exhibits they would like the undersigned to review.
5 However, the parties need not include copies of any documents that are already part of the
6 record. Instead, the parties shall direct the undersigned to the location of any such
7 documents. On or before **November 22, 2024**, the parties must email their position
8 statements to chambers <Aguilera_Chambers@azd.uscourts.gov>.

9 4. The position statements shall not exceed 20 pages, exclusive of exhibits,
10 which shall not exceed five in number, and shall contain the following information: a brief
11 recitation of the facts; a discussion of the claims and issues, including rulings on relevant
12 motions and a description of any pending or anticipated motions; whether there are any
13 lienholders; the status of discovery, the current trial date, the anticipated length of trial, and
14 whether it is a jury trial; a summary of settlement discussions to date; an estimate of the
15 fees and costs incurred to date, as well as an estimate of those to be expended for further
16 discovery, dispositive motions, and trial; a reasonable estimate of Plaintiffs' alleged
17 damages; and any other information that the parties believe would help the undersigned
18 facilitate the conference.

19 5. During the conference, the undersigned will have ex parte communications
20 with each side. The undersigned's role will be as a facilitator, a line of communication
21 between the parties, and if requested, an evaluator. In fulfilling these roles, the undersigned
22 will repeat many things stated in caucus but will confirm what is or is not confidential
23 before going into the other caucus room. While the undersigned is in the other caucus room,
24 the parties are expected to continue developing information that will be useful in presenting
25 their position to the other side.

26 6. A successful conference will conclude with either an agreement or an avowal
27 from the parties that although they tried their best to settle the case, it is one that must go
28 to trial. At the conclusion of the conference, the undersigned will notify the presiding

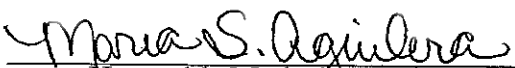
1 district judge whether an agreement has been reached.

2 7. Federal Rule of Evidence 408 will apply to all aspects of the conference. All
3 communications and information exchanged that is not otherwise discoverable will not be
4 admissible in evidence for any purpose. At the conclusion of the conference, all documents
5 submitted by the parties will be returned, destroyed, or otherwise disposed of in the manner
6 directed by the undersigned.

7 8. In the event one or more of the parties believe that the conference would be
8 futile, because, for example, a party or insurer has adopted a position from which they
9 refuse to deviate, the parties shall notify the undersigned in writing at least five business
10 days before the conference. If provided with a futility notice, the undersigned will arrange
11 a telephonic conference with the attorneys as soon as possible. If the undersigned is not
12 provided with a futility notice, the undersigned will presume that the parties believe there
13 is a reasonable, good faith opportunity for settlement.

14 9. Absent good cause, if any party, counsel, or representative fails to promptly
15 appear at the conference, fails to comply with the terms of this Order, is substantially
16 unprepared to meaningfully participate, or fails to participate in good faith, the undersigned
17 may impose sanctions pursuant to Federal Rule of Civil Procedure 16(f).

18 Dated this 7th day of October, 2024.

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20 Honorable Maria S. Aguilera
21 United States Magistrate Judge
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